

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File Number: EB-02-AT-379
Fun Media Group, Inc.)	
Owner of Antenna Structure # 1043249 in)	NAL/Acct. No. 200332480012
Scant City, Alabama)	
Arab, Alabama)	FRN: 0007-3298-65
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: December 6, 2002

By the Enforcement Bureau, Atlanta office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Fun Media Group, Inc., owner of antenna structure #1043249, willfully and repeatedly violated Section 17.50 of the Commission’s Rules (“Rules”)¹ by failing to clean and repaint its antenna structure to maintain good visibility. We conclude that Fun Media Group, Inc. is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. Fun Media Group, Inc. is the registered owner of a 500-foot tall antenna structure located in Scant City, Alabama. This structure is assigned antenna structure registration (“ASR”) #1043249. The structure is assigned obstruction lighting and marking requirements that include alternate painted bands of aviation orange and white.

3. On October 29, 2002, the Commission’s Atlanta Field Office (“Atlanta Office”) received a complaint from a private pilot who stated he came close to hitting a 500-foot tower near Arab, Alabama while conducting aerial photography. The pilot described the tower as being severely rusted causing it to blend in with the area terrain.

4. On October 30, 2002, an agent of the Atlanta Office inspected the antenna structure bearing FCC ASR #1043249 located in Scant City, Alabama. At the time of inspection, the structure’s paint was severely chipped and faded, resulting in poor visibility of the structure.

¹ 47 C.F.R. § 17.50.

III. DISCUSSION

5. Section 17.50 of the Rules states that antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility. The antenna structure owner is responsible for maintaining a structure's painting and lighting.² Fun Media Group, Inc. is the registered owner of antenna structure #1043249. This structure is assigned obstruction marking requirements that include alternate painted bands of aviation orange and white. On October 29 and 30, 2002, the paint on Fun Media Group's antenna structure had deteriorated to the point of being a hazard to air navigation due to the poor visibility of the tower.

6. Based on the evidence before us, we find Fun Media Group, Inc. willfully and repeatedly violated Section 17.50 of the Rules by failing to clean or repaint its antenna structure to maintain good visibility.

7. Pursuant to Section 1.80(b)(4) of the Rules,³ the base forfeiture amount for failure to comply with prescribed lighting and/or marking is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Considering the entire record and applying the factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Rules,⁶ Fun Media Group, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 17.50 of the Commissions Rules by failing to clean or repaint its antenna structure as often as necessary to maintain good visibility.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Fun Media Group, Inc., SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables

² See 47 C.F.R. § 17.6(a).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111 and 0.311.

Operations Group, 445 12th Street S.W., Washington, DC 20554.⁷

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical and Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

14. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by Certified Mail, Return Receipt Requested, to Fun Media Group, Inc., 981 North Brindlee Mountain Parkway, Arab, Alabama 35016.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director, Atlanta Office
Enforcement Bureau

ATTACHMENT

⁷ See 47 C.F.R. § 1.1914.